

**IN THE CLAIMS**

Please cancel without prejudice 29-33 and amend claims 1, 40, 45 and 49 as indicated in the following list of pending claims.

**PENDING CLAIMS**

1. (Currently Amended) A biopsy instrument for retrieving body tissue, comprising:

[[An]] an elongated shaft having a longitudinal axis, a tissue penetrating distal end and a distal shaft portion proximal to the distal end;

[[an]] a single electrosurgical cutting element coupled to the distal shaft portion which is energizable by radio frequency energy, which is longitudinally disposed on the distal shaft portion, which is actuatable between a radially retracted position and a radially extended position, relative to distal shaft portion, and which is rotatable in said radially extended position about the longitudinal axis of the shaft when energized by radio frequency energy to isolate a desired intact tissue specimen from tissue surrounding the distal shaft portion by defining a peripheral margin about said tissue specimen;

an electrical conductor having a distal end electrically connected to the electrosurgical cutting element and a proximal end configured to be connected to a source for radio frequency energy to deliver radio frequency energy from the source to the electrosurgical cutting element; and

an encapsulation component coupled to the distal shaft portion configured to extend over the distal shaft portion to encapsulate the isolated intact tissue specimen and to secure the intact tissue specimen to the exterior

distal shaft portion to facilitate removal of the intact tissue specimen from a patient's body along with removal of the instrument.

2-39. (Canceled)

40. (Currently Amended) An instrument assembly for isolating a tissue specimen from an intracorporeal site within a patient, comprising:

- a. an elongate shaft which has a longitudinal axis, a tissue penetrating distal end and a distal shaft portion proximal to the distal end having an exterior; and
- b. ~~[[an]]~~ a single electrosurgical tissue cutting component coupled to the distal shaft portion which is energizable by radio frequency energy, which is radially extendable from a retracted position to an extended position and which is configured to create a peripheral boundary about the tissue specimen and electrosurgically isolate a desired tissue specimen intact from surrounding tissue at the site;
- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting element and a proximal end configured to be connected to a source for radio frequency energy; and
- d. a tissue collection component coupled to the distal shaft portion which is configured to extend over the exterior of the distal shaft portion to encapsulate the isolated tissue specimen intact from the surrounding tissue at the site and securing the intact specimen to the exterior of the distal portion to facilitate removal of the specimen with removal of the assembly from the patient.

41. (Previously Presented) The instrument assembly of claim 40, wherein the tissue collection component is configured to maintain the encapsulated tissue specimen intact.

42. (Previously Presented) The instrument assembly of claim 40, wherein the tissue cutting component is longitudinally disposed on the exterior of the distal shaft portion.

43. (Previously Presented) The instrument assembly of claim 42, wherein the tissue cutting component is configured to be rotated at least in part about the longitudinal axis in the radially extended position to isolate the tissue specimen.

44. (Previously Presented) The instrument assembly of claim 43, wherein both the cutting component and the tissue collection component are movable from a retracted position to an expanded position.

45. (Currently Amended) An excisional device for cutting and removing a specimen of breast tissue from a patient, comprising:

- a. an elongate shaft having a tissue penetrating distal tip, a proximal shaft portion and a distal shaft portion proximal to the distal tip having an exterior;
- b. ~~[[an]]~~ a single electrosurgical tissue cutting component which is coupled to and longitudinally oriented on the distal shaft portion ~~of the shaft~~, which is energizable by radio frequency energy and which is configured to electrosurgically cut the specimen of breast tissue from surrounding breast tissue;
- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting component and a proximal end configured to be

connected to a source for radio frequency energy; and

- d. a tissue encapsulation component coupled to the distal shaft portion which is configured to encapsulate the cut specimen and maintain the encapsulated intact specimen on the exterior of the distal shaft portion to facilitate removal of the specimen upon removal of the device from the patient, both the cutting component and the tissue encapsulation component being movable from a retracted position to an expanded position.

46. (Previously Presented) The excisional device of claim 45, wherein the tissue encapsulation component has a proximal end and a distal end and which is configured to move one end closer to the other end to effect radial extension from the retracted position to an arcuate radial extended position.

47. (Previously Presented) The excisional device of claim 46, wherein the tissue encapsulation component is configured so that the distal end is fixed and the proximal end moves toward the distal end.

48. (Previously Presented) The excisional device of claim 45, wherein the tissue encapsulation component and the tissue cutting component are configured to expand and retract together.

49. (Currently Amended) An instrument for cutting, encapsulating and removing a tissue specimen from a patient's body, comprising:

- a. an elongate shaft which has a tissue penetrating distal end, a distal shaft portion proximal to the distal end having an exterior and a longitudinal axis
- b. ~~[[an]]~~ a single electrosurgical tissue cutting component which is energizable by radio frequency energy, which is coupled to and is

disposed longitudinally on the distal shaft portion and aligned with the longitudinal axis, which is radially extendable from a retracted position to an extended position relative to the longitudinal axis, which has an arcuate shape in the extended position and which is movable in the radially extended position about the longitudinal axis while being energized by radio frequency energy to isolate a desired tissue specimen intact from surrounding tissue by defining a peripheral margin about said tissue specimen;

- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting component and a proximal end configured to be connected to a source for radio frequency energy; and
- d. an encapsulation component coupled to the distal shaft portion for encapsulating the tissue specimen intact after it has been isolated from surrounding tissue and securing the intact specimen to the exterior of the distal shaft portion to facilitate removing the intact tissue specimen from the patient's body upon removal of the instrument from the patient.

50. (Previously Presented) The instrument of claim 49, wherein the instrument has a distal tissue cutting element on the distal end with a linear cutting surface disposed on the distal end of the shaft to facilitate accessing the tissue specimen within the patient's body.

51. (Previously Presented) The instrument of claim 49, wherein the encapsulation component has a plurality of encapsulation elements which are radially extendable from a retracted position to an extended position.